

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
Z-TEL COMMUNICATIONS, INC.)
)
Vs) 02-0160
)
ILLINOIS BELL TELEPHONE)
COMPANY, (AMERITECH ILLINOIS))
)
Verified complaint and)
request for emergency relief)
pursuant to Sections 13-514,)
13-515 and 13-516 of the)
Illinois Public Utilities)
Act.)

Chicago, Illinois
August 29, 2002

Met, pursuant to notice.

BEFORE:

Ms. Leslie Haynes, Administrative Law Judge.

1 APPEARANCES:

2 O'KEEFE, ASHENDEN, LYONS & WARD

MR. HENRY KELLY

3 MR. JOSEPH DONOVAN

30 North LaSalle Street, Suite 4100

4 Chicago, IL 60602

for Z-Tel;

5 MR. MARK KERBER

6 MR. EDWARD BUTTS

225 West Randolph Street, Suite HQ-25D

7 Chicago, IL 60606

for Illinois Bell Telephone Company;

8 MR. CARMEN FOSCO

9 MS. MARGARET KELLY

160 North LaSalle Street, Suite C-800

10 Chicago, IL 60601

for staff.

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17 SULLIVAN REPORTING COMPANY, by
18 MICHAEL R. URBANSKI, C.S.R.,
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1 JUDGE HAYNES: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 02-0160, Z-Tel Communications versus Illinois Bell
4 Telephone Company, verified complaint and request
5 for emergency relief pursuant to Sections 13-514,
6 515 and 516 of the Illinois Public Utilities Act.

7 May I have the appearances for the record,
8 please.

9 MR. KELLY: Henry Kelly, Joseph Donovan with
10 O'Keefe, Ashenden, Lyons & Ward appearing on behalf
11 of Z-Tel.

12 MR. FOSCO: Carmen Fosco and Margaret Kelly
13 appearing on behalf of the staff of the Illinois
14 Commerce Commission, 160 North LaSalle, Suite C-800,
15 Chicago, Illinois, 60602.

16 MR. KERBER: Mark Kerber and Ed Butts on behalf
17 of Ameritech Illinois.

18 JUDGE HAYNES: Okay. We have had a scheduling
19 discussion off the record and I issued a ruling this
20 morning on Z-Tel's motion to compel and Ameritech
21 believes it will be responding to Ameritech -- is
22 required to respond by September 6th given the

1 schedule.

2 MR. FOSCO: That's discovery response.

3 JUDGE HAYNES: To discovery responses, yes.

4 And Z-Tel will be filing its direct testimony
5 on September 16th.

6 Staff will file its testimony on September
7 19th.

8 And Ameritech will file its rebuttal testimony
9 on September 23rd -- 24th, sorry, at noon.

10 And the hearing is no longer the 26th. That
11 will be September 27th at 10:00 a.m.

12 And we've set the post-trial hearing schedule
13 as well, with initial briefs due October 4th, reply
14 briefs are due October 8th, and that same date if
15 parties wish, they may file draft orders.

16 My HEPO will be issued October 18th, briefs on
17 exceptions on October 25th, and reply briefs on
18 exceptions on October 19th, but parties are not
19 required to file reply briefs on exceptions. With
20 my PEPO out on November 1st. And --

21 MR. BUTTS: The reply brief on exceptions, you
22 said, was October 29th?

1 JUDGE HAYNES: Yes.

2 MR. BUTTS: October 29, okay.

3 JUDGE HAYNES: Is there anything else we want
4 to add?

5 MR. BUTTS: You want to put the dates in for
6 the other set of briefs?

7 JUDGE HAYNES: You're right.

8 The penalty -- on rehearing the penalty issue,
9 Ameritech will be filing its initial brief on
10 September 16th.

11 MR. FOSCO: The 25th.

12 JUDGE HAYNES: Z-Tel and staff will file reply
13 briefs on September -- their responses to
14 Ameritech's brief on September 25th, and Ameritech's
15 reply on October 2nd.

16 I think staff had raised the issue of
17 subpoenas, and I think we need to put a deadline on
18 when those must be filed by.

19 Will you, Z-Tel, will you know once you see
20 Ameritech's data responses if you need.

21 MR. KELLY: Yes. Once I see the responses to
22 the discovery requests, the documents and other

1 things.

2 I could do it by the 10th assuming the
3 information comes in on the 6th.

4 JUDGE HAYNES: Okay. So we'll put a
5 deadline --

6 MR. KELLY: And the reason I would want it on
7 the 10th, say, instead of the 9th is because I
8 wouldn't want to just do a knee jerk reaction, I see
9 somebody's name, let me do a subpoena.

10 What I'd like to do is maybe conference in with
11 Mr. Kerber and other Ameritech people.

12 JUDGE HAYNES: It doesn't need to be that soon
13 even.

14 MR. FOSCO: Just with their testimony?

15 MR. KELLY: Oh, that's right, because it's only
16 for the -- it only is respect to the hearing on the
17 27th.

18 JUDGE HAYNES: Correct. With your testimony is
19 the 16th.

20 MR. KELLY: Okay.

21 MR. BUTTS: And then if we want to move to
22 strike or quash the subpoenas, we'll have to do it

1 right away obviously so it could be decided before
2 the 27th.

3 JUDGE HAYNES: Correct. We could set that
4 schedule now or I could set it depending on whether
5 we got them and when. We can do it that way.

6 MR. BUTTS: I'd say we should wait and see if
7 he's going to try that.

8 MR. KERBER: I was going to say again, given
9 that that's a pretty unusual thing -- in fact, I
10 have never seen one actually happen -- doesn't make
11 sense to assume that we'd be there. I mean,
12 normally discovery ought to take care of that.

13 JUDGE HAYNES: Well, we'll just leave that
14 deadline in place for September 16th, and if it
15 happens, then we'll set a schedule.

16 What about motions in limine? Do parties think
17 that that may be happening?

18 MR. BUTTS: Don't know --

19 JUDGE HAYNES: Couldn't hear that last comment.

20 MR. BUTTS: Until we see Z-tel's testimony, I
21 don't think we can determine what we need to file.

22 MR. FOSCO: I can say we won't be moving to

1 strike Ameritech's testimony in a motion in limine
2 at this point.

3 JUDGE HAYNES: Let's put it at this point,
4 motion in limine, September 25th at noon.

5 MR. BUTTS: September 25th, 9/25.

6 JUDGE HAYNES: 9/25 at noon.

7 Anything else?

8 MR. KELLY: Can I just ask you to clarify the
9 ruling on the motion -- on the motion to compel.

10 You had indicated that our requests were overly
11 broad and that they were -- Ameritech was required
12 to produce responses in the items listed limited to
13 line losses, and I think that's that was sort of
14 a -- I just want to make sure that's with respect to
15 lost customers.

16 JUDGE HAYNES: Lost customers.

17 MR. KELLY: Lost customer lines, okay.

18 I'm not trying to be cagy -- I'm not trying to
19 be cagy or try to expand on what you're saying.

20 I just -- it's not related to the line loss
21 notice, I guess, is the bottom line. It's related
22 to line losses.

1 MS. KELLY: In general.

2 MR. KELLY: Lost Z-Tel customers.

3 MS. KELLY: Lost Z-Tel customers?

4 MR. KELLY: Yes.

5 MS. KELLY: Specifically to Z-Tel customers?

6 JUDGE HAYNES: On some of the work pertaining
7 to Ameritech, lost customers.

8 MR. KELLY: Yes, correct. The ruling did not
9 say notices.

10 MR. KELLY: Okay. Very good. That's fine.

11 JUDGE HAYNES: Anything further? Should we
12 schedule a status prior to the hearing.

13 MR. BUTTS: I would say let's wait and see if
14 we need it.

15 JUDGE HAYNES: Then this is continued until
16 September 27th at 10:00 a.m.

17 (Whereupon, further proceedings in
18 the above-entitled matter were
19 continued to September 27, 2002,
20 at 10:00 a.m.)
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